IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.No.3689 of 2001

Date of Decision : 10.10.2007

Phool Chand .....Petitioner

versus

Satpal and others .....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present : Mr.Arun Jain, Advocate for the petitioner.

Mr.Kanwaljit Singh, Senior Advocate with
Mr.I.S.Gill, Advocate for the respondents.

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JUDGMENT

HEMANT GUPTA, J.

The challenge in the present revision is to the order passed by the learned Courts below whereby the eviction sought by the petitioner on account of non payment of house tax was dismissed.

It is the case of the petitioner that the agreed rate of rent is Rs.30/- per month and that the house tax of Rs.486/- has been levied for the assessment year 1994-95 vide Exhibit P-2 and, therefore, the said amount is payable by the respondents. Since the said amount has not been paid in spite of reminders, therefore, the tenant is liable to be evicted.

Admittedly, in the assessment year 1993-94, Exhibit P-1 and onwards for the subsequent year 1998-99., Exhiit P-3, the rate of rent is reflected as Rs.30/- per month. On such rent, no house tax is leviable. In respect of the assessment year 1994-95 Exhibit P-2, only the monthly rent is mentioned as Rs.300/- on which house tax of Rs.486/- has been levied.

It is apparent from the record that the entry of Rs.300/- per month as amount of rent payable in the year 1994-95, assessment of the house tax is stray entry in as much as that in the previous assessment year and in the subsequent assessment years, the rate of rent is Rs.30/- per month. It is pleaded case of the petitioner that rate of rent is Rs.30/- per month. Such being the rate of rent, no house tax is leviable. Therefore, the petitioner cannot claim the amount of house tax.

Both the Courts below have found that the petitioner has failed to prove that any notice claiming tax was served upon the respondents in as much as no acknowledge due or receipt of dispatch of the notice has been produced on record. In terms of Section 9 of the East Punjab Urban Rent Restriction Act, 1949, the liability of payment of house tax arises only on serving of notice claiming the amount of house tax. Since the notice is not proved to have been served upon the respondents, therefore, I do not find any illegality or irregularity in the orders passed by the Courts below which may warrant interference of this Court in exercise of its revisional jurisdiction.

Consequently, the present revision petition is dismissed.

10-10-2007 **(HEMANT GUPTA)**
*mohinder **JUDGE**